

REMARKS

Claims 151-154, 156-159, 161-164 and 202-205 were pending in this application. The Examiner has rejected claims 151-154, 156-159, 161-164 and 202-205 under 35 U.S.C. § 103(a) as being unpatentable over Ellis et al. U.S. Patent No. 5,986,650 (hereinafter "Ellis") in view of Herz et al. U.S. Patent No. 5,758,257 (hereinafter "Herz"). The Examiner's rejections are respectfully traversed.

In accordance with the Examiner's suggestions, applicants have amended claims 151, 156, 161 and 202 to more particularly define the invention. No new matter has been added and the amendments are fully supported and justified by the specification.

Applicants' invention, as defined by amended independent claims 151, 156, 161 and 202, is directed towards a method, systems, and machine-readable media for aiding a user to identify programs of interest by allowing the user to sequentially browse program listings, separately, in an overlay display. The program listings are limited based on various attributes of programs that have been viewed by the user. The user may adjust the relative importance of the program attributes that are used to limit the program listings.

Ellis refers to an electronic television program guide system that provides television programs

and program schedule information. Program schedule information may be displayed in overlaying relationship with a television program or in full-screen. The system also includes a scan feature that allows a user to scan program schedule listings for multiple television programs (Ellis, abstract and col. 2, line 63 - col. 3, line 49).

Herz refers to displaying programming that meets the parameters of a customer profile on a virtual channel.

The Examiner contends that Ellis discloses all of the features of applicants' claims 151, 156, 161 and 202 except the feature of limiting the program listings displayed in the overlay based on attributes of the television programs viewed by the user (Office Action, page 4, ¶ 3). The Examiner then contends that Herz shows this feature. Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness.

Contrary to the Examiner's contention, applicants respectfully submit that, whether taken alone or in combination, neither Ellis nor Herz shows all of the features of applicants' claims 151, 156, 161 and 202. As noted by the Examiner, Ellis does not show limiting the program listings displayed in the overlay based on the attributes of the programs viewed by the user. It

therefore follows that Ellis does not show allowing the user to adjust the relative importance of the program attributes that are used to limit the displayed program listings. Herz, besides not showing limiting program listings displayed in an overlay based on the attributes of programs viewed by a user, fails to mention anything related to the use of overlays whatsoever. Rather, Herz describes that virtual channels corresponding to the channels that match a customer profile may be presented in a general electronic program guide or display guide (Herz, FIG. 9 and col. 45, lines 34-55). Neither Ellis nor Herz shows displaying program listings in an overlay that are limited based on a user profile.

Moreover, applicants respectfully submit that there is no objective teaching or suggestion to combine Ellis and Herz. The Examiner merely states that:

It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Ellis with the technique of providing listing[s] of programs based on the attributes of programs viewed, for the known improvement of more accurately estimating which programs the customer would have interest in... (Office Action, page 4, last ¶ - page 5, first ¶)

Applicants respectfully submit that the Examiner is employing hindsight reconstruction in asserting that it would have been obvious to combine Ellis with Herz. More particularly, the Examiner states that the combination is

obvious because it would result in an improvement of Ellis. This is not an objective teaching or suggestion in the prior art as required. See, e.g., MPEP § 2143.01.

In fact, because Herz makes no mention of overlays, because Herz makes no mention of using overlays to display program listings, because Herz makes no mention of using overlays to display program listings separately, and because Herz makes no mention of limiting program listings displayed in an overlay based on attributes of programs viewed by the user, there can not possibly be any objective teaching or suggestion to combine the customer profile feature of Herz with the overlay features of Ellis.

In view of the foregoing, applicants submit that this application is now in condition for allowance. Reconsideration and allowance of this application are respectfully requested.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Alex Shvarts", written over a horizontal line.

Alexander Shvarts  
Registration No. 47,943  
Attorney for Applicants

FISH & NEAVE  
Customer No. 1473  
1251 Avenue of the Americas  
New York, New York 10020-1105  
Tel: (212) 596-9000  
Fax: (212) 596-9090